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1           b.       transacted and/or solicited business using the name of Dana Capital Group,  
2 Inc., which is not licensed in Arizona as a mortgage broker or mortgage banker;

3           c.       failed to conduct the minimum required elements of reasonable employee  
4 investigations before hiring twenty-five employees, specifically: failed to consult with the  
5 applicant's previous employer when hiring twenty-five (25) employees; failed to inquire  
6 regarding the applicant's qualifications and competence for the position when hiring twenty-  
7 four (24) employees; failed to obtain an I9 document before hiring eight (8) employees;  
8 failed to collect copies of I9 documents when hiring four (4) employees; failed to properly  
9 complete the I9 document when hiring five (5) employees; failed to obtain credit reports  
10 before hiring five (5) employees and failed to investigate further as to the applicant's  
11 honesty, truthfulness, integrity or competence when hiring eleven (11) employees;

12          d.       paid compensation to unlicensed, independent contractors, specifically: paid  
13 compensation to an unlicensed, independent loan processor; purchased mortgage leads from  
14 an unlicensed entity and paid loan origination fees to an unlicensed, independent mortgage  
15 company;

16          e.       failed to maintain correct and complete records of the mortgage broker  
17 business, specifically: failed to maintain a file containing samples of all advertising and/or  
18 solicitations;

19          f.       failed to maintain a complete loan application listing, specifically: failed to  
20 include a provision for the loan application date;

21          g.       allowed borrowers to sign nine (9) regulated documents containing blank  
22 spaces without obtaining the proper authorization from the borrowers to complete the blank  
23 spaces;

24          h.       failed to issue proper federal disclosures as required, specifically: failed to  
25 disclose yield spread premiums to six (6) borrowers and failed to issue servicing transfer  
26 disclosures to three (3) borrowers;

1 i. failed to execute a proper written fee/document agreement with borrowers,  
2 specifically: failed to sign and/or date a written fee/document agreement for three (3)  
3 borrowers and failed to issue a written fee/document agreement to six (6) borrowers;

4 j. used unlawful appraisal disclosures that limit a borrower to 90 days in which  
5 the borrower may request a copy of an appraisal for which the borrower has paid;

6 k. failed to have a responsible individual in active management of Petitioners'  
7 Arizona activities, specifically: the responsible individual was not knowledgeable about  
8 Petitioners' Arizona activities and did not supervise compliance with Arizona laws and rules  
9 as they relate to mortgage loan activities, and Petitioners failed to give the responsible  
10 individual sufficient authority to ensure such compliance;

11 l. failed to obtain approval from the Superintendent to maintain Dana's records  
12 outside of Arizona; and

13 m. failed to provide all information requested to conduct a proper examination of  
14 Petitioner's books and records, specifically: failed to produce wage and payroll information  
15 for ten (10) Arizona employees and failed to produce invoices for eleven (11) marketing  
16 and/or consulting companies.

17 5. Based upon the above findings, the Department issued and served upon Dana and Mr.  
18 Caruana an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of  
19 Order ("Cease and Desist Order") on November 30, 2005.

20 6. On December 29, 2005, Petitioners filed a Request For Hearing to appeal the Cease  
21 and Desist Order.

22 7. The Department has found no evidence that Petitioners' violations were willful or  
23 intentional.

24 8. Petitioners have voluntarily agreed to take corrective action and have attempted to  
25 comply with the Department's requests. However, such finding does not waive any provisions of  
26 this Consent Order.

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j. A.R.S. § 6-906(C) by using unlawful appraisal disclosures that limit a borrower to 90 days in which the borrower may request a copy of an appraisal for which the borrower has paid;

k. A.R.S. § 6-903(E) and A.A.C. R20-4-102 by failing to ensure that Petitioners' responsible individual maintained a position of active management and by failing to delegate sufficient authority to the responsible individual to ensure compliance;

1. A.R.S. § 6-906(A) by failing to obtain approval from the Superintendent to maintain records out of state and

m. A.R.S. § 6-905(A)(4) by failing to provide all requested information necessary to conduct an examination of Petitioner's books and records.

3. The violations set forth above constitute grounds for the issuance of an order directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S. § 6-137.

4. The violations set forth above constitute grounds for the imposition of a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to A.R.S. § 6-132.

## ORDER

1. Dana and Mr. Caruana shall correct all violations set forth in the Findings of Fact and in the Report of Examination. Dana and Mr. Caruana shall:

a. obtain a branch office license from the Superintendent before conducting mortgage banker activities at branch office locations;

b. discontinue using an unlicensed name in transacting and/or soliciting business;

- c. conduct the minimum required elements of reasonable employee investigations before hiring;
- d. discontinue paying compensation to unlicensed, independent contractors;
- e. maintain correct and complete records of the mortgage broker business;
- f. maintain a proper loan application listing;
- g. discontinue allowing borrowers to sign regulated documents containing blank spaces unless the proper authorization is first obtained from borrowers;
- h. issue proper federal disclosures in compliance with the disclosure requirements of title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;
- i. execute proper written fee/document agreements with borrowers who provide documents to Petitioners;
- j. discontinue using unlawful appraisal disclosures;
- k. ensure that Petitioners' responsible individual maintains a position of active management and delegate all necessary authority to the responsible individual to ensure compliance with Arizona statutes and rules;
- l. obtain permission from the Superintendent to maintain records outside of Arizona; and
- m. provide all missing information to the Department as requested, specifically all 2003 payroll information and all requested invoices.

2. Dana and Mr. Caruana shall immediately pay to the Department a civil money penalty in the amount of fifty thousand dollars (\$50,000). Dana and Mr. Caruana are jointly and severally liable for payment of the civil money penalty.

3. The provisions of this Order shall be binding upon Petitioners, their employees, agents and other persons participating in the conduct of the affairs of Petitioners.

4. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated or set aside.

5. This Consent Order, by its terms, shall not preclude Dana Capital Group, Inc., a California corporation, from applying to the Department to acquire control of Dana Capital Group of Arizona, Inc., nor shall this Consent Order constitute the Superintendent's approval of that transaction.

SO ORDERED this 22nd day of March, 2006.

Felicia Rotellini

Felecia A. Rotellini  
Superintendent of Financial Institutions

### CONSENT TO ENTRY OF ORDER

Petitioners, without admitting or denying the Findings of Fact set forth in this Consent Order, agree as follows:

1. Petitioners acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.

2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.


3. Petitioners state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.

4. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

5. Quentin P. Caruana, signing on behalf of Dana Capital Group of Arizona, Inc. dba Dana Capital Group and himself, represents that he is the President and as such, has been authorized by Dana Capital Group of Arizona, Inc. dba Dana Capital Group to consent to the entry of this Order on its behalf.

6. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest the validity of the Cease and Desist Order or Notice of Hearing.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

By:   
 Quentin P. Caruana, President  
 Dana Capital Group of Arizona, Inc.  
 dba Dana Capital Group

ORIGINAL of the foregoing filed this 23rd  
day of March, 2006, in the office of:

Felecia A. Rotellini  
Superintendent of Financial Institutions  
Arizona Department of Financial Institutions  
ATTN: June Beckwith  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

COPY mailed same date to:

Lewis D. Kowal  
Administrative Law Judge  
Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

Craig A. Raby  
Assistant Attorney General  
Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007




1 Robert D. Charlton, Assistant Superintendent  
Joan S. Doran, Senior Examiner  
2 Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

5 Quentin P. Caruana, President  
6 Dana Capital Group of Arizona dba Dana Capital Group  
745 E. Maryland #207  
7 Phoenix, AZ 85014  
Petitioners

8 James E. Brophy, III, Esq.  
9 RYLEY CARLOCK & APPLEWHITE  
One North Central Avenue, Suite 1200  
10 Phoenix, Arizona 85004-4417  
Attorneys for Petitioners

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945665:CPA05-353

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